

prudence and the statements of theoretical jurisprudence describing that object."

Radin narrows the creation of legal norms to one figure only, the creation of individual norms by the judgment of courts, wrongly identifying "The Law" with court law. But is an act of congress not a legal norm? And what about primitive legal orders, as e. g., the present international law, which have no compulsory courts? But even by this narrow focusing of all attention to what the judge decides legal realism is leads to a *reductio ad absurdum*. For *why* is the decision of a judge a legal statement? Obviously only because the judge is the competent organ of the legal order. How can the realist from observable behavior tell us that a man *is* a judge? Whether a man is a judge or not, can only be decided on the basis of legal norms. And finally, there is a fundamental fallacy of confusing the objective contents of a court decision with the physiological or psychological processes in the body or mind of the judge. It is as if someone would tell us that Pythagoras' theorem $c^2 = a^2 + b^2$ is nothing but the observable behavior of mathematicians.

Professor Radin shows himself again in these lectures as a fine scholar, an excellent writer, as a man of profound learning and wit; it is only a pity that so much talent is applied to the defense of a theoretically untenable and destructive doctrine.

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CONCERNING ENGLISH ADMINISTRATIVE LAW. *Sir Cecil Thomas Carr. New York: Columbia University Press. 1941. \$2.00.*

This book presents the six lectures—prepared and published under the dangers of air—and submarine warfare—delivered by Sir Cecil Thomas Carr, the Editor of "Statutory Rules and Orders", upon the Carpentier Foundation at Columbia University in 1940. They deal with various aspects of English administrative law: a series of lectures, not a treatise. The book shows fine scholarship, a critical mind and sense of humour.

Administrative law has only lately and rather reluctantly been

recognized in Britain and in this country; contrary to Continental Europe, it remained in the common law countries for a long time *terra incognita*. This reluctance is based on the fear that delegated legislation and administrative tribunals may endanger liberty, may give too much power to the government, encroach upon the courts, threaten the doctrine of the separation of powers, and create this institution of bureaucracy, which Lord Palmerstone still could assure the Queen is a phenomenon exclusively continental. Dicey wrote of administrative law as something alien and continental. But, notwithstanding all that, administrative agencies with legislative and judicial functions have sprung up in Britain and America and are growing in importance; and they have sprung up long ago.

The first lecture deals with what Sir Cecil calls England's "New Deal" in the eighteen thirties, the Factories Act, creating factory inspectors, the Poor Law Board, the General Board of Health. Apart from some remarks on legislative drafting and on bureaucracy, the author deals primarily with the problems of delegated legislation and administrative tribunals. Also with regard to these two particular problems of administrative law, Sir Cecil, with a typical English suspicion against theory, does not give us a theory, but discusses practical problems. He shows not only that delegated legislation and administrative tribunals are, for many reasons, simply unavoidable, but also that they do not threaten the Rule of Law, if certain conditions are fulfilled and certain safeguards provided. This is particularly shown with regard to the four great Emergency Acts of this century in Britain, the latest being the Emergency Powers (Defense) Act of 1939. Crisis legislation certainly means more government and less liberty. He concedes that "intensive regimentation and restrictions, impatient suppression of heterodox views, internment of dissentients . . . are steps toward dictatorship, even when taken along a lawful and constitutional road" and that "the most successful dictator is he who gains his power without forsaking this road." But free peoples temporarily surrendering freedom "will expect their inheritance restored to them when the storm is over."

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